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COMMITTEE ON THE ELIMINATION OF
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Agenda item 7

ADOPTION OF THE REPORT

Addendum

Sri Lanka

1. The Committee considered the second periodic report of Sri Lanka (CEDAW/C/13/Add.18) at its 202nd meeting, on 28 January. The list relating to that report contains the following questions.

General observations

It is easily evident from a review of the situation of women in Sri Lanka (both initial and second periodic reports) that the problem does not lie in the sphere of the national law. Sri Lankan national law, based on the enunciation of the Constitution of 1973, provides for the fundamental right of equality between the sexes. A progressive Charter of Women was furthermore formulated (although reportedly not officially adopted) in 1991, and several levels of bureaucracies have been put in place with the objective of pushing for true women's equality.

Despite a liberal constitutional framework and a tradition of progressive legislation, gender discrimination, both in its overt and covert forms, still abounds in the country.

The problem clearly lies elsewhere and, in the face of the second periodic report from the country, the imperative is to identify and address the factors which constitute the obstacles to de facto equality.

Major critical issues

There are five areas (and a subsection on violence) that are being suggested for close investigation as constituting major sources of continuing discrimination against women.

Impact of the internal armed conflicts

1. Have these armed conflicts led to an increase in military spending and to a decrease in spending for development?

2. Are there statistics available on the numbers of persons that have been affected by the armed conflicts, especially on the number of displaced persons? How many of these are women and children?

3. What problems have been identified regarding these women and children?

4. What are the short-term and long-term measures being undertaken to improve the quality of life of displaced persons, if not to bring about a permanent solution to the problem?

5. Are there women who have been placed under military detention or forced into exile? What is being done about their cases? Do they have recourse to courts or tribunals?

6. What is the status of women who have been forced to leave Sri Lanka? What provision is made by families of these women, especially their dependent children?

7. Are these measures for the redress of "grievances" or compensation of victims of political violence?

Effectiveness of government machinery (arts. 1-4)

More than many other countries, Sri Lanka has established a firm legal and justiciable basis for gender equality and has established a number of governmental bodies to be responsible for government action on the issue. However, many observers will note that, while the mandates of these agencies were comprehensive enough, actual acievements in advancing women's rights have been scarce.

1. What is the staff size for women's issues of the Ministry of Women's Affairs and Teaching Hospitals (MWATH) as compared to the staff of the Women's Bureau? Who works in the Women's Bureau as director, deputies and officers? Only women, or men also? Do they have separate budgets, and if so, what size?

2. What is the relationship between MWATH and the Commission for the Elimination of Discrimination?

3. Give some more information on the objectives of the Women's Bureau. What is meant exactly by the phrase: "ensuring the preservation of Sri Lanka culture and traditions by fostering moral and ethnical values so far as they affect the role of women in the process of modernization"?

4. Which and how many recommendations have been made concerning equality of women before the law? What legislative proposals did the Women's Bureau put forward to the Government, and which have been accepted by the Government?

5. How many complaints of sex discrimination, and in what areas, have been filed with the Commission for the Elimination of Discrimination and the Monitoring of Fundamental Rights since 1986? How many have been handled by the Commission, and with what results?

6. Why has no sex discrimination complaint been brought to the Supreme Court?

7. What is the relationship between the Supreme Court and the Commission for the Elimination of Discrimination in such matters?

8. Do complaints have to be filed by individuals or can women's organizations file claims?

9. Why does the Government not use the instrument of temporary special measures to overcome obstacles to the equality of women?

10. Does the Government have any plans to extend to women the special measures it has developed to advance the status of other disadvantaged groups?

11. What is the status of the Charter of Women? Has it been formally adopted as legal or executive action? If not, why not? Has the idea of a Charter been scrapped? If so, why?

12. Has the National Commission on Women proposed in the Charter of Women been established? What is its relationship to the other bodies concerned with women's rights? What is its programme of action in pursuit of the stated objectives? If it has not been set up, does the Government still have plans along these lines?

Discrimination due to personal laws (arts. 2, 3, 5 and 16)

From the initial report of Sri Lanka, the most disturbing feature that emerged was the existence or application of several systems of "personal laws", based on differing social and cultural practices of ethnic or religious groups that deny equal status of women before the law. The Government has given the information that a proposal to eradicate personal laws had been resisted by the concerned parties. Beyond identifying the specific issues raised by the existence of

conflicting laws, the attempt needs to be made to draw up a legal framework that will adhere to the constitutional principle of gender equality within the context of a multicultural and pluralistic society.

1. Has the State made a move to identify and codify all the personal laws that are discriminatory towards women? These include laws that provide for: preference for males in intestate succession (Muslim law); no obligation for the father to maintain an illegitimate child (Muslim); women's consent as not a prerequisite for a valid marriage (Muslim); inability to dispose of immovable property without the husband's consent, etc.

2. Since Sri Lanka made no reservations when it ratified the Convention, how does the Government intend to resolve the contradiction between the constitutional provision and the teaching of human rights and the continued existence of discriminatory laws for women?

3. Why is personal status law the only area in which religious and ethnic laws remain intact, while all other legal fields (e.g., criminal, contractual, civil, etc.) are governed by a single general law?

4. Is there any system of redress for women covered by personal laws?

5. Have women been effectively consulted on their feelings and proposals regarding the disposition of personal laws?

6. Do temporary special measures have a role in beginning to dislodge the application of personal laws?

7. What are the other legal avenues open to redress the situation?

Socialization to traditional gender roles (arts. 5, 10 and 11)

The second period report ascribes the continued subordination and marginalization of women in many spheres of life (e.g., public life) as being primarily self-imposed due to their own internalized concept of women's appropriate role and responsibility in society.

1. What have been the results of the Women's Bureau's survey on the changing attitudes and perspectives of women?

2. Have men been studied too?

3. Does the Government see progress on the basis of this study in bringing about more equal roles and tasks in all areas of life?

4. What measures are there to ensure that women complete this education? For example, has consideration been given to raising the age for marriage?

5. What has been the role of education in perpetuating as well as eliminating gender stereotypes?

6. What kinds of curriculum and programme changes has the Government initiated since the Life Skills Project?

7. Do young men and women study mathematics and science the same number of hours in secondary school?

8. Are there development efforts being undertaken, in either the public or the private sector, to provide for more vocational alternatives for women?

9. What special measures has the Government introduced to motivate employers to place women in positions of skill or responsibility in both the private and the public sectors?

10. Since the Government recognizes that family duties put a constraint on women's work in public life, what does the Government plan to do to alleviate these constraints (e.g., child care, flexible working time, etc.)?

Violence against women (arts. 2, 5, 11, 12 and 16)

1. Do women under personal laws suffer a greater incidence of domestic violence and sexual abuse, including rape, within the family?

2. Is there a higher incidence of violence against women in areas or communities where personal laws are in operation?

Women in the economy (arts. 6, 11 and 12)

The economy of Sri Lanka is in critical shape and women, in the effort to keep their families above survival thresholds, have had to take jobs in vulnerable and unprotected spheres of work. There is a need to seek remedies to the situation of both short-term and long-term measures.

There are areas of work where women appear to be especially vulnerable:

1. Women working in plantation work:

1.1 Do women work on plantations as seasonal workers, or are they employed on a year-round basis?

1.2 What is being done to prevent plantation management from cicumventing the intention of the equal wages law?

1.3 Do maternity benefits also apply directly to women working on plantations?

1.4 What programmes have been directed towards female plantation workers, and with what results?

2. Women in free trade zones (especially the garment industry):

2.1 Are wages and health regulations protected by a trade unions agreement?

2.2 Are women allowed to associate, join trade unions, improve their working conditions and protect themselves from sexual harassment and violence?

3. Domestic workers employed overseas:

3.1 How many women are employed as domestic workers overseas and what measures are there to look after their interests?

3.2 To what extent were women who had migrated as domestic workers to the Gulf States affected by the Gulf war?

3.3 Does the Government know of causes of rape, mutilation, and death of these women? If so, what has been its reaction?

3.4 What is the situation of these workers now? Have they returned to Sri Lanka? If so, have they found new jobs?

4. Domestic workers in Sri Lanka:

4.1 What is the situation of domestic workers employed in local homes?

4.2 Are there provisions for wage standardization or regulation of workloads and working hours?

4.3 Do they have access to a system of redress?

5. Prostituted women

5.1 Are there statistics available, such as on the number of women affected, and especially young girls, and also on the number of raids carried out and of the men and women arrested?

5.2 What has been the development on the proposed legal changes affecting prostitution?

5.3 Are there statistics on the incidence of AIDS?

5.4 What is being done to counteract this?

6. Does the Women's Bureau intend to undertake studies on the effect on women of:

6.1 Structural adjustment policies;

6.2 Sex tourism;

6.3 Export of female labour to home-based or entertainment-related overseas work;

6.4 Free trade zones.

Replies of the representative of the Government of Sri Lanka

2. The representative of Sri Lanka stated in her opening remark that discrimination as such was not prevalent in any part of the country. The situation created by the armed conflict was considered a national problem, and special treatment of women in that situation was not possible.

3. The representative first replied to the questions asked under the heading "The impact of the internal armed conflict". She said that military spending had increased from 2.3 per cent of the budget to 10 per cent. A complete recovery with regard to development programmes had however taken place over the last three years, facilitated by strong economic growth. Her country had also obtained concessional assistance for development and economic restructuring with a focus on rural marginalized subgroups. Those would undoubtedly have the effect of benefiting women. She stressed that even the worst of times had not seen the perpetration of discriminatory practices on women. Issues relating to displaced persons, refugees and their resettlement and rehabilitation were dealt with by the highest authorities. The peak of displaced persons had been reached with 1.2 million, a number currently reduced to 696,000 (163,500 families). No sex-disaggregated statistics were kept in that field. Five hundred twenty-nine (529) welfare centres had been established to house displaced persons and other assistance measures had been taken as well. The measures focused on the family unit and the assistance was given to the breadwinner, whether man or woman. The representative said that there are no women placed under military detention nor had any been forced into exile. Women arrested in conjunction with the insurrection were being treated under statutory law and were subject to established judicial tribunals. No sex-disaggregated statistics were kept concerning persons who had fled Sri Lanka. Measures for redress of grievances were available at courts of law irrespective of sex.

4. Under the heading "Effectiveness of government machinery", the representative provided the following replies. The national machinery had the following structure: at the top was the Ministry of Health and Women's Affairs (MHWA), headed by a woman cabinet minister. Within its infrastructure operated the State Ministry of Women's Affairs (headed by a woman State Minister), which had been assigned specific responsibilities in relation solely to women's affairs. The Women's Bureau was the implementing organ in

relation to projects. Staff assigned to women's issues were as follows: three persons in the State Ministry (of which two were women, namely the State Secretary and the Senior Minister), 17 in the Women's Bureau (of which 13 were women, including the Director, the two Deputy Directors and two of the three Assistant Directors) and 98 in the districts (field offices). The State Ministry and the Women's Bureau had their independent budgetary allocations. Development programmes were funded through foreign aid. As to the question relating to the links between MHWA and the Commission for the Elimination of Discrimination and the Monitoring of Fundamental Rights (CEDMFR), which had been established in Sri Lanka in 1986, she replied that there were no special organizational links. The Ministry was involved in policy formulation and implementation, and the Commission had its strict guidelines. The purpose of CEDMFR was to receive complaints on discrimination on a broader spectrum. A total of 39 complaints of sex discrimination had been filed with CEDMFR. The Commission looked at all grounds of discrimination, sex being one of them. Twenty-two complaints were by women and 17 had come from men. In 11 of the 22 cases no discrimination had been found, 6 applications had been settled or withdrawn and 5 cases were pending. The majority of cases alleged discrimination on more grounds than sex. CEDMFR used a conciliatory and mediatory process. No legal representation was required. Applications before the Supreme Court must be argued by Counsel and could be a costly exercise. The absence of sex discrimination complaints before the Supreme Court might perhaps also have to do with the inability to actually prove discrimination in a court of law. The Supreme Court was the highest court, and CEDMFR was empowered to attempt settlement by conciliation of any matter which might be referred to it by the Supreme Court. Only the aggrieved party could file a complaint with the Supreme Court. Complaints to CEDMFR could be made by women's organizations.

5. To date the use of temporary special measures had not been resorted to. No plans had been formulated for the purpose so far. The Charter for Women was available in draft form and was awaiting governmental approval. The Ministry of Women's Affairs was considering and would formulate the mechanism to monitor implementation of the Convention on the Elimination of All Forms of Discrimination against Women. This might include the appointment of a National Commission on Women. As to the objects and functions of the Women's Bureau, the representative said that they were reviewed as necessary to set desired priorities. Recently, the Bureau had been focusing on the promotion of economic activities among women and no recommendations concerning equality of women before the law had been made. The Bureau had not dealt with the area of legislative reform. The representative also said that Sri Lankan women, in their quest for advancement and equality, must not shed the positive features of moral and ethical standards.

6. The representative then addressed questions asked under the heading "Discrimination due to personal laws" (arts. 2, 3, 5 and 16). She stated that that was indeed a difficult matter. An awareness of differences in personal law concerning men and women did exist. The attempted introduction of one national personal law had been met with resistance. A Muslim Law Reform Committee comprising women had been established to recommend reforms, where

necessary. Areas that appeared to discriminate against women and that were being looked into by the Reform Committee included the preference for males to intestate succession. The justification used was that the husband had a duty to support the wife. Also, upon marriage, a Muslim was required to give Mehr (a kind of dowry) to the wife which she could claim at any time during marriage or she had a first charge on his estate. Another area of apparent discrimination was the lack of obligation on the father to maintain an illegitimate child. Here, it was hoped that the Reform Committee would consider a change in attitude. Concerning the fact that the woman's consent was not a prerequisite for a valid marriage, it had to be said that the woman's consent was in fact a requirement but was largely breached. One hoped for a firm proposal of the Reform Committee to ensure compliance with the right to consent. Concerning the husband's right to practise polygamy, she said that a proposal was before the Reform Committee which would enable the wife to divorce the husband by unilateral decision if he entered into a second marriage. Customary law had been left in place by the colonial rulers as far as possible. Muslims had recourse to the Quazi courts in Muslim marriage and divorce matters; otherwise access to normal courts was available. Women seemed to be more concerned with the improvement of economic conditions and skills rather than with the reform of personal laws.

7. The next series of questions addressed by the representative related to the "Socialization to traditional gender roles". A survey planned by the Women's Bureau on changing attitudes of women had not been completed. As to the average age of marriage of women, she said that it was 26 years, in particular because more and more women were pursuing education and careers. Women were very conscious of getting an education. The need to incorporate a more realistic marriage age into the statute had been identified. The revision of school textbooks and teaching materials to eliminate gender stereotypes had begun. Elementary school students, irrespective of gender, were exposed to the same skills. No difference in the number of study hours for mathematics and science existed for males and females. A gradual diversification process in vocational skills was being introduced. The State had not been able to provide facilities for child care, flexible work hours, etc.

8. Regarding violence against women, the representative stated that the fact that a woman was governed by Muslim law, Thesawalamai or Kandyan law certainly had had no impact on the use of violence.

9. Under "Women in the economy", the representative stated that the majority of women workers were employed on a year-round basis on tea plantations. She said that surveys indicated plantations' compliance with equal wage laws, and that maternity allowances applied. Medical facilities were provided. Programmes directed towards female plantation workers covered adult education, health, nutrition, sanitation, family planning, etc. Infant mortality and maternal mortality rates had dropped considerably, and literacy and quality of life rates had increased. Women in free trade zones was an issue which had been identified as an area worthy of close scrutiny. It was believed that there was room for improvement in working and living conditions. The number

of women domestic workers in the Middle and Far East was estimated at 250,000. A disproportionate number of Sri Lankan embassies was located in the countries of those regions. Certain mandatory conditions, such as minimum wage and return air fare, were set for employers to safeguard the interests of the women workers. An estimated 65,000 women reportedly had returned to Sri Lanka during the Gulf war. Over 30,000 of these had gone back abroad. Returnees obtained a compensation. If and when known, instances of rape, death, etc., of domestic workers overseas led to appropriate governmental action. Domestic workers in Sri Lanka were not governed by labour laws, and there were no attempts to standardize wages or working hours. There was no system of redress, except for leaving the employment. The representative did not have at her disposal statistics on prostitution. She said that adequate legal provisions existed, but that the focus must be on effective implementation. There were 39 cases of AIDS in men, and 10 in women. Information campaigns on AIDS were being carried out. A study on structural adjustment policies had been carried out by the Centre for Women's Research, an NGO. The suggestion of a study on sex tourism would be considered, and a study on women in free trade zones would be undertaken.

10. Members of the Committee thanked the representative for her answers. A number of additional questions was asked.

11. Referring to the armed conflict, members asked what were the main incidences of violence against women as a result of the conflict, and what kind of efforts the Government was making to solve the problem. Clarification was also sought on family and domestic violence. One member wondered whether it was possible to obtain an injunction against a husband in connection with violence. Further clarification and more details were sought on the issue of women in free trade zones, and in particular concerning the existence of trade unions, the right to organize, protection of young and vulnerable women, etc. One member inquired about rural women and changes occurring in their roles of production and whether, and how, the Government assisted them. Reference was made to a report on missing persons, disaggregated by sex, that had been presented to the Government. The expert wondered whether any action had been taken on the basis of the report. Several members referred to the use, or non-use, of temporary special measures under article 4 of the Convention, and to affirmative action. Experts stressed the usefulness of such measures in overcoming de facto discrimination and obtaining a step-by-step improvement of women's situation. They wondered why the Government did not use such measures. Concerning personal law, it was asked whether women, especially young women, accepted the application of personal law, or whether they opted for national law instead. It was also asked what happened to women after divorce, what the precise provisions were under the ordinary code and whether proposals for reform of divorce law existed. It was asked whether the new measures on prostitution had removed the stigma attached to it, and what had been done in terms of rehabilitation. It was asked whether it was still true that physical opposition had to be shown to bring a charge of rape. Concerning the dowry practice, one expert wondered how it was compatible with the fact that the Government had ratified the Convention, and whether the

Government considered eliminating the practice. It was asked whether the Government was doing anything to stop migration.

12. In referring to the third periodic report, members looked forward to details on the activities of the new National Commission on Women, in particular also with regard to measures under article 4. Since there seemed to be a strong legal foundation, members hoped for details concerning areas where there was no clear, apparent discrimination, and in particular with regard to the following four areas: (i) assistance to displaced persons and the fact that women's situation in such circumstances might be harder still; (ii) a detailed review of complaints and redress before the Supreme Court and CEDMFR might be useful; (iii) information on the availability of support for family responsibilities since the lack of such support systems often led to further disadvantages for women; and (iv) the question might be addressed whether the Government, given the economic situation, had more worries for women than for men. By addressing those issues, the underlying conditions rather than apparent discrimination could be exposed.

13. In replying to the additional questions, the representative stated that women in the armed conflict did not get special treatment. Concerning women working in the free trade zones, that was recognized to be a problem. The laws were there, but they were not always allowed to be implemented. The matter was being looked into. No change in the role of rural women could be observed. Women in rural areas would benefit greatly from poverty elimination programmes under the family unit approach. They were also opting for newer and easier vocations. No negative economic impact was visible. Temporary special measures and affirmative action programmes would cause antagonistic reactions against women when they caused women to be placed in unfairly advantageous positions. The representative stated that there was so much natural progress anyway. She said that women could not opt out of their own personal law. She also said that since there was no serious agitation for reform from within, she inferred that women under Muslim law must be better off. Women argued that under that law they have a right to be treated justly. They did not feel that they were discriminated against. On the divorce question, she said that the statute provided for the payment of alimony, awarded by the judge, for the wife and children. Grounds for divorce are fault-based (desertion, adultery and impotence). A reform currently envisaged by the Government would establish the unified concept of the irretrievable breakdown. On the issue of rape, she explained that physical resistance would prove that there was no consent, but was in itself not necessary for bringing charges. The stigma on prostitution remained. The idea of using the Convention for steps against dowry was an interesting thought, the representative said. But law alone could not eliminate traditions. She agreed that there was definately a need to amend the statute concerning the marriage age. Denying migration, she said, would be very unpopular, because it was based on economic needs. But the Government should instead look after these women before, during and after migration.

14. In closing, the Committee expressed its understanding for the difficulties faced by the Government of Sri Lanka. The efforts made to deal

with the situation were appreciated. The Committee stated that some temporary special mreasures might be advisable and that it was up to the Government to decide which ones would be most useful. The representative was advised to look into this possibility to improve the situation and to speed up improvements. The next report should provide information on legal measures, education and consciousness raising, to further the advancement of women. The aim of whatever measures the Government decided to take should be to bring the de jure and the de facto situation in the country into line with the provisions of the Convention. A balance must be found between what existed and the Convention. Progress should be achieved as quickly as possible without causing a backlash to the advancement of women.